

Commodity Futures Trading Commission

§ 23.156

(1) *Standardized initial margin schedule.*

Asset class	Gross initial margin (% of notional exposure)
Credit: 0–2 year duration	2
Credit: 2–5 year duration	5
Credit: 5+ year duration	10
Commodity	15
Equity	15
Foreign Exchange/Currency	6
Cross Currency Swaps: 0–2 year duration ...	1
Cross Currency Swaps: 2–5 year duration ...	2
Cross Currency Swaps: 5+ year duration	4
Interest Rate: 0–2 year duration	1
Interest Rate: 2–5 year duration	2
Interest Rate: 5+ year duration	4
Other	15

(2) *Net to gross ratio adjustment.* (i) For multiple uncleared swaps subject to an eligible master netting agreement, the initial margin amount under the standardized table shall be computed according to this paragraph.

(ii) Initial Margin = $0.4 \times \text{Gross Initial Margin} + 0.6 \times \text{Net-to-Gross Ratio} \times \text{Gross Initial Margin}$, where:

(A) Gross Initial Margin = the sum of the product of each uncleared swap's effective notional amount and the gross initial margin requirement for all uncleared swaps subject to the eligible master netting agreement;

(B) Net-to-Gross Ratio = the ratio of the net current replacement cost to the gross current replacement cost;

(C) Gross Current Replacement cost = the sum of the replacement cost for each uncleared swap subject to the eligible master netting agreement for which the cost is positive; and

(D) Net Current Replacement Cost = the total replacement cost for all uncleared swaps subject to the eligible master netting agreement.

(E) In cases where the gross replacement cost is zero, the Net-to-Gross Ratio shall be set to 1.0.

§ 23.155 Calculation of variation margin.

(a) *Means of calculation.* (1) Each business day each covered swap entity shall calculate variation margin for itself and for each counterparty that is a swap entity or a financial end user using methods, procedures, rules, and inputs that to the maximum extent practicable rely on recently-executed transactions, valuations provided by

independent third parties, or other objective criteria.

(2) Each covered swap entity shall have in place alternative methods for determining the value of an uncleared swap in the event of the unavailability or other failure of any input required to value a swap.

(b) *Control mechanisms.* (1) Each covered swap entity shall create and maintain documentation setting forth the variation methodology with sufficient specificity to allow the counterparty, the Commission, the registered futures association, and any applicable prudential regulator to calculate a reasonable approximation of the margin requirement independently.

(2) Each covered swap entity shall evaluate the reliability of its data sources at least annually, and make adjustments, as appropriate.

(3) The Commission or the registered futures association at any time may require a covered swap entity to provide further data or analysis concerning the methodology or a data source, including:

(i) An explanation of the manner in which the methodology meets the requirements of this section;

(ii) A description of the mechanics of the methodology;

(iii) The conceptual basis of the methodology;

(iv) The empirical support for the methodology; and

(v) The empirical support for the assessment of the data sources.

§ 23.156 Forms of margin.

(a) *Initial margin*—(1) *Eligible collateral.* A covered swap entity shall collect and post as initial margin for trades with a covered counterparty only the following types of collateral:

(i) Immediately available cash funds denominated in:

(A) U.S. dollars;

(B) A major currency;

(C) A currency of settlement for the uncleared swap;

(ii) A security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of Treasury;

(iii) A security that is issued by, or unconditionally guaranteed as to the

timely payment of principal and interest by, a U.S. government agency (other than the U.S. Department of Treasury) whose obligations are fully guaranteed by the full faith and credit of the U.S. government;

(iv) A security that is issued by, or fully guaranteed as to the payment of principal and interest by, the European Central Bank or a sovereign entity that is assigned no higher than a 20 percent risk weight under the capital rules applicable to swap dealers subject to regulation by a prudential regulator;

(v) A publicly traded debt security issued by, or an asset-backed security fully guaranteed as to the timely payment of principal and interest by, a U.S. Government-sponsored enterprise that is operating with capital support or another form of direct financial assistance received from the U.S. government that enables the repayments of the U.S. Government-sponsored enterprise's eligible securities;

(vi) A security that is issued by, or fully guaranteed as to the payment of principal and interest by, the Bank for International Settlements, the International Monetary Fund, or a multilateral development bank;

(vii) Other publicly-traded debt that has been deemed acceptable as initial margin by a prudential regulator;

(viii) A publicly traded common equity security that is included in:

(A) The Standard & Poor's Composite 1500 Index or any other similar index of liquid and readily marketable equity securities as determined by the Commission; or

(B) An index that a covered swap entity's supervisor in a foreign jurisdiction recognizes for purposes of including publicly traded common equity as initial margin under applicable regulatory policy, if held in that foreign jurisdiction;

(ix) Securities in the form of redeemable securities in a pooled investment fund representing the security-holder's proportional interest in the fund's net assets and that are issued and redeemed only on the basis of the market value of the fund's net assets prepared each business day after the security-holder makes its investment commitment or redemption request to the

fund, if the fund's investments are limited to the following:

(A) Securities that are issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury, and immediately-available cash funds denominated in U.S. dollars; or

(B) Securities denominated in a common currency and issued by, or fully guaranteed as to the payment of principal and interest by, the European Central Bank or a sovereign entity that is assigned no higher than a 20 percent risk weight under the capital rules applicable to swap dealers subject to regulation by a prudential regulator, and immediately-available cash funds denominated in the same currency; and

(C) Assets of the fund may not be transferred through securities lending, securities borrowing, repurchase agreements, reverse repurchase agreements, or other means that involve the fund having rights to acquire the same or similar assets from the transferee, or

(x) Gold.

(2) *Prohibition of certain assets.* A covered swap entity may not collect or post as initial margin any asset that is a security issued by:

(i) The covered swap entity or a margin affiliate of the covered swap entity (in the case of posting) or the counterparty or any margin affiliate of the counterparty (in the case of collection);

(ii) A bank holding company, a savings and loan holding company, a U.S. intermediate holding company established or designated for purposes of compliance with 12 CFR 252.153, a foreign bank, a depository institution, a market intermediary, a company that would be any of the foregoing if it were organized under the laws of the United States or any State, or a margin affiliate of any of the foregoing institutions, or

(iii) A nonbank financial institution supervised by the Board of Governors of the Federal Reserve System under Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5323).

(3) *Haircuts.* (i) The value of any eligible collateral collected or posted to

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satisfy initial margin requirements shall be subject to the sum of the following discounts, as applicable:

(A) An 8 percent discount for initial margin collateral denominated in a currency that is not the currency of settlement for the uncleared swap, ex-

cept for eligible types of collateral denominated in a single termination currency designated as payable to the non-posting counterparty as part of the eligible master netting agreement; and

(B) The discounts set forth in the following table:

STANDARDIZED HAIRCUT SCHEDULE

Cash in same currency as swap obligation	0.0
Eligible government and related debt (e.g., central bank, multilateral development bank, GSE securities identified in paragraph (a)(1)(iv) of this section): Residual maturity less than one-year	0.5
Eligible government and related debt (e.g., central bank, multilateral development bank, GSE securities identified in paragraph (a)(1)(iv) of this section): Residual maturity between one and five years	2.0
Eligible government and related debt (e.g., central bank, multilateral development bank, GSE securities identified in paragraph (a)(1)(iv) of this section): Residual maturity greater than five years	4.0
Eligible corporate debt (including eligible GSE debt securities not identified in paragraph (a)(1)(iv) of this section): Residual maturity less than one-year	1.0
Eligible corporate debt (including eligible GSE debt securities not identified in paragraph (a)(1)(iv) of this section): Residual maturity between one and five years	4.0
Eligible corporate debt (including eligible GSE debt securities not identified in paragraph (a)(1)(iv) of this section): Residual maturity greater than five years	8.0
Equities included in S&P 500 or related index	15.0
Equities included in S&P 1500 Composite or related index but not S&P 500 or related index	25.0
Gold	15.0
Additional (additive) haircut on asset in which the currency of the swap obligation differs from that of the collateral asset	8.0

(ii) The value of initial margin collateral shall be computed as the product of the cash or market value of the eligible collateral asset times one minus the applicable haircut expressed in percentage terms. The total value of all initial margin collateral is calculated as the sum of those values for each eligible collateral asset.

(b) *Variation margin*—(1) *Eligible collateral*—(i) *Swaps with a swap entity*. (A) A covered swap entity shall post and collect as variation margin to or from a counterparty that is a swap entity only immediately available cash funds that are denominated in: U.S. dollars;

(B) Another major currency; or

(C) The currency of settlement of the uncleared swap.

(ii) *Swaps with a financial end user*. A covered swap entity may post and collect as variation margin to or from a counterparty that is a financial end user any asset that is eligible to be

posted or collected as initial margin under paragraphs (a)(1) and (2) of this section.

(2) *Haircuts*. (i) The value of any eligible collateral collected or posted to satisfy variation margin requirements shall be subject to the sum of the following discounts, as applicable:

(A) An 8% discount for variation margin collateral denominated in a currency that is not the currency of settlement for the uncleared swap except for immediately available cash funds denominated in U.S. cash funds or another major currency; and

(B) The discounts for initial margin set forth in the table in paragraph (a)(3)(i)(B) of this section.

(ii) The value of variation margin collateral shall be computed as the product of the cash or market value of the eligible collateral asset times one minus the applicable haircut expressed in percentage terms. The total value of

all variation margin collateral shall be calculated as the sum of those values of each eligible collateral asset.

(c) *Monitoring obligation.* A covered swap entity shall monitor the market value and eligibility of all collateral collected and posted to satisfy the margin requirements of §§ 23.150 through 23.161. To the extent that the market value of such collateral has declined, the covered swap entity shall promptly collect or post such additional eligible collateral as is necessary to maintain compliance with the margin requirements of §§ 23.150 through 23.161. To the extent that the collateral is no longer eligible, the covered swap entity shall promptly collect or post sufficient eligible replacement collateral to comply with the margin requirements of §§ 23.150 through 23.161.

(d) *Excess margin.* A covered swap entity may collect or post initial margin or variation margin that is not required pursuant to §§ 23.150 through 23.161 in any form of collateral.

§ 23.157 Custodial arrangements.

(a) *Initial margin posted by covered swap entities.* Each covered swap entity that posts initial margin with respect to an uncleared swap shall require that all funds or other property that the covered swap entity provides as initial margin be held by one or more custodians that are not the covered swap entity, the counterparty, or margin affiliates of the covered swap entity or the counterparty.

(b) *Initial margin collected by covered swap entities.* Each covered swap entity that collects initial margin required by § 23.152 with respect to an uncleared swap shall require that such initial margin be held by one or more custodians that are not the covered swap entity, the counterparty, or margin affiliates of the covered swap entity or the counterparty.

(c) *Custodial agreement.* Each covered swap entity shall enter into an agreement with each custodian that holds funds pursuant to paragraphs (a) or (b) of this section that:

(1) Prohibits the custodian from rehypothecating, repledging, reusing, or otherwise transferring (through securities lending, securities borrowing, repurchase agreement, reverse repur-

chase agreement or other means) the collateral held by the custodian except that cash collateral may be held in a general deposit account with the custodian if the funds in the account are used to purchase an asset described in § 23.156(a)(1)(iv) through (xii), such asset is held in compliance with this section, and such purchase takes place within a time period reasonably necessary to consummate such purchase after the cash collateral is posted as initial margin; and

(2) Is a legal, valid, binding, and enforceable agreement under the laws of all relevant jurisdictions including in the event of bankruptcy, insolvency, or a similar proceeding.

(3) Notwithstanding paragraph (c)(1) of this section, a custody agreement may permit the posting party to substitute or direct any reinvestment of posted collateral held by the custodian, provided that, with respect to collateral posted or collected pursuant to § 23.152, the agreement requires the posting party, when it substitutes or directs the reinvestment of posted collateral held by the custodian.

(i) To substitute only funds or other property that would qualify as eligible collateral under § 23.156, and for which the amount net of applicable discounts described in § 23.156 would be sufficient to meet the requirements of § 23.152; and

(ii) To direct reinvestment of funds only in assets that would qualify as eligible collateral under § 23.156, and for which the amount net of applicable discounts described in § 23.156 would be sufficient to meet the requirements of § 23.152.

§ 23.158 Margin documentation.

(a) *General requirement.* Each covered swap entity shall execute documentation with each counterparty that complies with the requirements of § 23.504 and that complies with this section, as applicable. For uncleared swaps between a covered swap entity and a counterparty that is a swap entity or a financial end user, the documentation shall provide the covered swap entity with the contractual right and obligation to exchange initial margin and variation margin in such amounts, in